

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
January 7, 2010

Meeting Began At: 1:00 P.M.

Meeting Ended At: 1:27 P.M.

Members Present: Tim Clare, Jayne Snyder, Chris Beutler

Item 1 - Introductions and Notice of Open Meetings Law Posted by Door

Chair Snyder opened the meeting and advised that the open meetings law is in effect and is posted in the back of the room.

Item 2 – Public Comment and Time Limit Notification

Snyder stated that individuals from the audience will be given a total of five minutes to speak on specific items listed on today's agenda. Those testifying should identify themselves for the official record and sign in.

Item 3 – Approval of the minutes from the JPA meeting held December 16, 2010

Snyder asked for any corrections or changes to the minutes from December 16, 2010. Hearing none, Clare motioned for approval of the minutes. Beutler seconded the motion. Motion carried 3-0.

Item 4 – Bill No. WH 10-23 Resolution to Approve a Contract between General Excavating and the West Haymarket JPA for Arena Site Diesel Fuel Plume Remediation

Miki Esposito with Public Works and Utilities came forward and explained that she is managing the environmental remediation on the West Haymarket project. She distributed photos and a site map of the area that is subject to this contract. The area of excavation for the diesel plume remediation is approximately a city block wide. Burlington Northern had been recovering free product, salvaging and reusing it but the JPA doesn't have a need for that. The contractor will excavate it and pump out the diesel plume. They will be removing approximately 14,000 cubic yards of soil which will be hauled out and managed appropriately. That same amount of soil will have to be brought back in to fill the hole and ensure geotechnical requirements are met. There will also be some temporary shoring in order to protect the rail line so track movement is not jeopardized. This process will take six to ten weeks and is weather dependent.

Snyder noted that the addendum states that the contractor is only allowed 42 calendar days and the completion date is February 15th. Esposito stated that February 15th is not realistic as there

has already been a three week delay. She will be bringing a change order to the Board in the future to modify that date. The 42 days noted in the addendum is a part of the City specifications but there is flexibility with that.

Clare asked if the contamination is isolated to this one location as shown on the map. Esposito affirmed that the diesel plume is isolated to that area. They know a lot about the plume because it has been delineated vertically and horizontally and the Burlington Northern contractor has monitored it to 18 feet. However, they won't know for sure until they excavate. Esposito pointed out that the costs associated with this remediation are reimbursable by the State. The fund exceeds a little more than \$800,000 and she will submit applications for those funds so that the majority of this project will be paid for by the State.

Snyder observed that General Excavating, a Lincoln business, was chosen and asked if the other bids were higher. Esposito answered that General Excavating was the lowest responsible bidder by a large margin. The highest bid came in at over \$2 million.

Snyder asked for any comments from the public. Hearing none, Clare made a motion to approve the resolution. Beutler seconded the motion. Motion carried 3-0.

Item 5 – Bill No. WH 11-02 Resolution to Approve the Purchase Order for Tank Removal and Closure by General Excavating

Esposito stated that this purchase order is in regards to a 300 gallon diesel tank that was found on City property formerly owned by Union Pacific. Riley Construction was in the area doing storm water grading when they encountered a small tank. The tank was crumpled but had no corrosion holes or leaks and contained approximately 250 gallons of diesel that could be recovered and salvaged. NDEQ and State Fire Marshall regulations required closing the site and addressing it. A purchase order was issued to get a certified tank closure and the area was fenced off so that no one could get into it during the remaining storm water grading. The diesel was salvaged at no cost because the value of the product exceeded the work done. General Excavating created the closure assessment report and submitted it to the State Fire Marshall and NDEQ. The next steps are to excavate three to four more feet, do another round of sampling under the area and submit a report to NDEQ. If there is no further impact from this tank NDEQ will issue a formal closure letter.

Snyder noted that the tank was discovered during excavation and asked how long we had known about it. Esposito indicated that it was discovered the Friday before the week of Thanksgiving. Staff assessed that it was urgent but not an emergency; therefore the purchasing requisition process could be utilized to get a certified tank closure.

Snyder asked for any comments from the public. Hearing none, Beutler made a motion to approve the resolution. Clare seconded the motion. Motion carried 3-0.

Item 6 – Bill No. WH 11-03 Resolution to Approve Amendment No. 2 to the Haymarket Infrastructure Design Contract

Randy Hoskins, Public Works and Utilities, reported that this is an amendment to the design contract with Olsson Associates. The amendment includes design work for a new bridge across Salt Creek, improvements to Charleston Street from 1st Street to Sun Valley, improvements along Sun Valley and widening 6th Street to a three lane section. The cost of this amendment is just under \$600,000 and the goal is to begin construction late this summer.

Beutler asked for clarification of the Appendix A-8 Total Project Fee statement. Hoskins observed that this particular sheet shows the breakdown of various items and personnel costs for Olsson Associates. The expenses which include subconsultants are for the Schemmer Associate's portion.

Snyder inquired if these are the same locations that the Mayor discussed at the last meeting in which the State may or may not be involved. Hoskins explained that there have been discussions with the State regarding this project. At one time the State had an active project that would have widened Sun Valley from West O Street to 1st and Cornhusker. They were approached about participating in any work that might be a part of their permanent project design. They were not willing to spend any money at this time because their project has gone inactive. There were some concerns about this project because if anything is done that locks in a future alignment for the roadway, the project may not be eligible for any sort of federal funding. That would not impact what the JPA is doing but may impact the future of the State's Sun Valley project. After discussions with both the State and Federal government, it was determined that what is planned here won't impact any future potential for federal funding.

Clare asked if this is a part of the initial plan and if it is identified in the budget. Hoskins answered that it is.

Snyder asked for any comments from the public. Hearing none, Clare made a motion to approve the resolution. Beutler seconded the motion. Motion carried 3-0.

Item 7 – Bill No. WH 11-06 Resolution to approve Amendment No. 1 to the Consultant Agreement between SAIC Energy, Environment & Infrastructure, LLC (formerly Benham Companies LLC) and the West Haymarket Joint Public Agency

Rick Peo stated that the City of Lincoln originally entered into a consultant agreement with Benham Companies LLC, now SAIC, to perform program management services for the West Haymarket project. That agreement was subsequently assigned to the JPA through an assignment and assumption agreement. Looking back at the original agreement there were two errors that needed to be corrected. The term of the agreement stated it began the date of execution as opposed to the date the consultant actually began doing services for the City of Lincoln. Peo would like the contract term to start the date services actually began. The agreement also provides that the consultant would be paid for reasonable expenses for meals and other incidentals. Reasonable expenses were not defined. Peo felt it would be appropriate to put in a \$46 per day maximum based on Federal criteria.

Snyder asked for any comments from the public. Hearing none, Clare made a motion to approve the resolution. Beutler seconded the motion. Motion carried 3-0.

Item 8 – Bill No. WH 11-07 Resolution authorizing AON Risk Solutions on behalf of the West Haymarket Joint Public Agency to bind the Owners Liability Interest coverage being offered by Lexington Insurance Company (including Excess Coverage Layer 1) and Liberty Insurance Underwriters Inc. for Excess Coverage - Layer 2

Dan Marvin and Scott Scheidel, Aon Risk Services, came forward. Marvin explained that one of the requirements in the Burlington Northern agreement for work to occur on the property predicated on the JPA having a \$25 million occurrence and \$50 million aggregate general liability insurance policy. On behalf of the JPA, Aon negotiated a contract for that policy with two different insurance companies. The primary, Lexington, was willing to provide coverage for \$25 million per occurrence and \$25 million aggregate. In order to meet the \$25/\$50 million that Burlington Northern required, Liberty was approached to write an additional policy for \$25 million. Liberty was able to do that at a very competitive price. Marvin indicated that when they originally started budgeting, they estimated the cost of insurance to be in the range of \$500,000 to \$1 million. Lexington and Liberty came in with an amount that is under the original budget. This coverage will also allow work to move forward in conjunction with the General Excavating contract that was just approved so that site monitoring and other activities can occur.

Clare asked what the combined coverage is. Scheidel answered that Lexington is providing \$25 million per occurrence and \$25 million aggregate. Liberty is providing \$25 million above that, so technically the total is \$50 million per occurrence and \$50 million aggregate. Clare asked if there was a way to split off the extra occurrence amount. Scheidel stated that it could not be split. The \$25 million is in excess of the Lexington policy whether that is utilized in one occurrence or in multiple occurrences. Scheidel also noted that both companies are among the highest and best rated carriers.

Clare inquired if there is any exclusion to the coverage that causes any concern. Scheidel noted that there was an exclusion that came up during the quote dealing with exterior structural elements. They discussed this item with the City and Mortenson who stated that there wouldn't be any issues with that.

Snyder asked for any comments from the public. Hearing none, Beutler made a motion to approve the resolution. Clare seconded the motion. Motion carried 3-0.

Item 9 – Bill No. WH 11-08 Resolution to Approve Modifications to the Contract with DLR Group, Inc. for the design of the Arena and Other Arena Improvements

Rick Peo informed the Board that this is an amendment to the architectural agreement with DLR Group to provide design services for the arena and the parking garages associated with the arena. This amendment adds two tasks to the agreement. The first is for the design of the arena parking garage for approximately 500 vehicles. This garage was a part of the original agreement but the negotiation of fees for those services was deferred. That fee has since been established and

negotiated and is approximately \$698,599. The second addition to the amendment is to allow DLR to hire a specialty consultant to work on food services within the arena. This was deemed to be a major component for the suites and as such a specialty consultant was needed that had not been identified in the original contract. The cost for that portion is approximately \$110,000.

Snyder asked for any comments from the public. Hearing none, Beutler made a motion to approve the resolution. Clare seconded the motion. Motion carried 3-0.

Item 10 – Set Next Meeting Date: Wednesday January 26, 2011 3:00 P.M. (County/City Building Room 303)

The next meeting will be held on Wednesday January 26, 2011 at 3:00 P.M.

Item 11 – Motion to Adjourn

Clare made a motion to adjourn. Beutler seconded the motion. Meeting adjourned at 1:27.

Prepared by: Melissa Ramos-Lammli, Engineering Services